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EXAMINER
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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

Office Action Summary	Application No. 09/672,359	Applicant(s) ALMASSY, NIKOLAUS P.W.
	Examiner James D Ewart	Art Unit 2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on _____ .

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-41* is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-15, 22-32 and 39-41* is/are rejected.

7) ☒ Claim(s) *16-21 and 33-38* is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

  If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

  a)☐ All b)☐ Some * c)☐ None of:

    1.☐ Certified copies of the priority documents have been received.

    2.☐ Certified copies of the priority documents have been received in Application No. _____ .

    3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

  a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *2* .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____ .

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Claim Objections

1.   Claim 7 is objected to because of the following informalities: "calling partying" should

be "calling party". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless – (e) the invention was described in (1) an application for patent,
> published under section 122(b), by another filed in the United States before the invention by the applicant for
> patent or (2) a patent granted on an application for patent by another filed in the United States before the
> invention by the applicant for patent, except that an international application filed under the treaty defined in
> section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States
> only if the international application designated the United States and was published under Article 21(2) of such
> treaty in the English language.

2.   Claims 1 - 6, 8 - 11 and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by

Brennen (U.S. Patent No. 5,329,578).

Referring to claim 1, Brennean et al teaches in a wireless communications network

(Figure 1A 17), a method for a mobile station to control the receipt of messages (Column 1,

Lines5-12)) the method comprising: creating a group of message responses (Column 5, Table 1);

identifying a calling party (Column 6, Lines 15-16); selecting a message response from the group

of message responses, in reaction to the identity of the calling party; and supplying the selected

message response (Column 5, Table 1 and Column 9, Line 59).

Referring to claim 2, Brennen teaches creating message responses selected from the

group including audio alerting, vibration alerting, not alerting and responding with a busy signal,

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not alerting and recording the message, and forwarding the call to another telephone (Colum 2, 34-48)

Referring to claim 3, Brennan et al further teaches creating a plurality of message response groups; and selecting a message response group from the plurality of message response groups (Column 5, Lines 4&5 and Table 1.0; Family).

Referring to claim 4, Brennen et al teaches wherein selecting a message response group from the plurality of message response groups includes selecting a message response group in reaction to factors including the time of day, communication activity level, and manual selection.

Referring to claim 5, Brennen et al further teaches wherein creating a group of message responses includes creating a hierarchy of message responses; and the method further comprising: creating a hierarchy of priority groups (Column 5, Lines 13-15); inserting calling party identities into the priority groups (Column 5, Lines 13-15); creating a matrix of the priority group hierarchy cross-referenced to message response hierarchy (Column 5, Table 1.0); and wherein selecting a message response from the group of message responses (Column 5, Lines 58-59), in reaction to the identity of the calling party, includes: locating the calling party in a priority group; and selecting a message response in reaction to locating the priority group (Column 5, Table 1.0).

Referring to claim 6, Brennen et al further teaches receiving a calling party security code; in response to receiving the security code, providing an override message response (Column 8,

Lines 19-23 and Column 2, Lines 51 and 52).

Referring to claim 8, Brennen et al further teaches wherein creating a hierarchy of priority groups includes adding special identities to the hierarchy of priority groups (Column 5, Table 1); wherein creating a matrix of the priority group hierarchy cross-referenced to message response hierarchy includes cross-referencing the special identities to message responses (Column 5, Table 1); and wherein selecting a message response from the group of message responses, in reaction to the identity of the calling party, includes: prior to locating a calling party identity in a priority group, locating the calling party identity in the special identities; and selecting a message response in reaction to locating the calling party in the special identities (Column 5, Table 1).

Referring to claim 9, Brennen et al further teaches wherein creating a plurality of message response groups includes creating a plurality of message response hierarchies (Column 5, Table 1); and the method further comprising: creating matrices of the priority group hierarchy cross-referenced to each of the plurality of message response hierarchies (Column 5, Table 1); and wherein selecting a message response group from the plurality of message response groups includes identifying the priority group-message response matrix to be used for cross-referencing the located priority group (Column 5, Table 1).

Referring to claim 10, Brennen et al further teaches comprising: editing the matrices to modify a relationship between a priority group and a message response (column 6, Lines 47-55).

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Referring to claim 8, Brennen et al further teaches wherein creating a hierarchy of priority groups includes adding special identities to the hierarchy of priority groups (Column 5, Table 1); wherein creating a matrix of the priority group hierarchy cross-referenced to message response hierarchy includes cross-referencing the special identities to message responses (Column 5, Table 1); and wherein selecting a message response from the group of message responses, in reaction to the identity of the calling party, includes: prior to locating a calling party identity in a priority group, locating the calling party identity in the special identities; and selecting a message response in reaction to locating the calling party in the special identities (Column 5, Table 1).

Referring to claim 9, Brennen et al further teaches wherein creating a plurality of message response groups includes creating a plurality of message response hierarchies (Column 5, Table 1); and the method further comprising: creating matrices of the priority group hierarchy cross-referenced to each of the plurality of message response hierarchies (Column 5, Table 1); and wherein selecting a message response group from the plurality of message response groups includes identifying the priority group-message response matrix to be used for cross-referencing the located priority group (Column 5, Table 1).

Referring to claim 10, Brennen et al further teaches comprising: editing the matrices to modify a relationship between a priority group and a message response (column 6, Lines 47-55).

Referring to claim 11, Brennen et al further teaches comprising: editing the matrices to modify the relationship between a calling party identity and a priority group (Column 8, Lines 47-51 and Column 6, Lines 47-50).

Referring to claim 41, Brennen et al teaches a wireless communications network, a system to control the receipt of messages, the system comprising: a mobile station having a wireless communications port to accept calls (Figure 1 a, 17); and a remote site having a wireless communication port (Figure 1a. mobile switch), a microprocessor, a software application of machine executable instructions, and a memory including a group of message responses(Figure 1 b), the remote site selecting a message response from the group of message responses in reaction to the identity of the calling party (Column 5, Table 1), and the remote site communicating the selected response to the mobile station (Column 5, Table 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2.   Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brennan et al and further in view of Davis (U.S. Patent No. 4,942,598).

Referring to claim 12, Brennen et al teaches all the limitations of claim 12 in which the mobile station includes a local memory, a microprocessor, and a software application of microprocessor instructions (Figure 1a, 17); but does not teach storing message responses in the local memory. Davis teaches storing message responses in the local memory (Column 2, Lines 63-68). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennan with the teaching of Davis of storing message responses in the local memory to distribute the recording of a telephone message (Column 2, Lines 65-66)

Referring to claim 13, Brennen et al further teaches all the limitations of claim 13 wherein selecting a message response group from the plurality of message response groups includes using the software application to select a priority group-message response matrix from memory for use in cross-referencing the located priority group, (Column 5 Table 1) but does not teach storing message responses in the local memory. Davis teaches storing message responses in the local memory (Column 2, Lines 63-68). Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine Brennen et al with the teaching Davis of storing message responses in the local memory to distribute the recording of a telephone message (Column 2, Lines 65-66)

Referring to claims 14 and 15, Brennen et al further teaches wherein a remote memory is included, and further comprising: loading the priority group-message response matrices into the

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remote memory; and wherein selecting a message response group from the plurality of message response groups includes loading a priority group message response matrix, into local memory from the remote memory, for use in cross-referencing the located priority group (Figure 1 a and Column 4,63-66 and Column 4, Lines 55-66)

Referring to claim 21, Brennen et al further teaches in which a remote site memory, software application of machine executable instructions, and microprocessor are included; and the method further comprising: loading the priority group-message response matrices into remote memory; and wherein selecting a message response group from the plurality of message response groups includes using the remote site software application to select a priority group-message response matrix from remote memory for use in cross-referencing the located priority group; and wherein supplying the message response includes supplying the message response to the mobile station from the remote site (Column 4, Line 55-66 and Table 1 on Column 5).

Referring to claim 22, Brennen et al further teaches in which the wireless communication system provides Caller ID services; and wherein identifying the calling party includes using the Caller ID service to identify the calling party (Column 3, Lines 62-68).

Referring to claim 23, Brennen et al further teaches wherein identifying a calling party includes determining a calling party identity from factors including the complete phone number, area code, unknown number, and blocked number (Column 4, Lines 52-54).

3. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brennan et al and further in view of Higuchi et al (U.S. Patent No. 2002/0058500)

Referring to claim 24, Brennen et al further teaches a wireless communications network, a system to control the receipt of messages, the system comprising: a wireless communications port to accept calls, including a microprocessor, a software application of machine executable instructions, and a memory with a group of message responses, and identifying a calling party and selecting a message response from tile group of message responses, in reaction to the identity of the calling party, but does not teach a mobile phone. Higuchi et al teaches a mobile phone. Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennen et al with the teaching of Higuchi et al of using a mobile phone to respond to an incoming call with a plurality of messages (0008)

Referring to claim 25, Brennan further teaches wherein the mobile station further includes indicators selected from the group including audible indicators (Column 6, Table 2 # of rings), vibrator indicators, and a visual display indicators; and wherein message responses include responses selected from the group including: using an indicator to alert, not using an indicator to alert, responding with a busy signal, not alerting and recording the message, and forwarding the call to another telephone (Column 3, Line 62 – Columnn 3, Line 14).

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Referring to claim 26, Brennan et al further wherein the stored message response group is a message response group selected from a plurality of stored message response groups (Column 5, Lines 4&5 and Table 1, Family)

Referring to claim 27, Davis teaches further teaches wherein the mobile station further includes a switch; and wherein the message response group stored in memory is selected in reaction to factors including the time of day, communication activity level, and manual selection using the switch (0071).

Referring to claims 28 and 31, Brennen et al further teaches wherein creating a group of message responses includes creating a hierarchy of message responses (Column 5, table 1); and the method further comprising: creating a hierarchy of priority groups (Column 5, Lines 13-15); inserting calling party identities into the priority groups (Column 5, Table 1); creating a matrix of the priority group hierarchy cross-referenced to message response hierarchy (Column 5, Table 1.0); and wherein selecting a message response from the group of message responses (Column 5, Lines 58-59), in reaction to the identity of the calling party, includes: locating the calling party in a priority group; and selecting a message response in reaction to locating the priority group (Column 5, Table 1.0).

Referring to claim 29, Brennen et al further teaches the memory includes an override priority group; wherein the mobile station receives a calling party security code to trigger the override priority group; and wherein the software application provides the override message

response from memory in response to receiving the security code (Column 8, Lines 19-23 and Column 2, Lines 51 and 52), but does not teach a mobile phone. Higuchi et al teaches a mobile phone. Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennen et al with the teaching of Higuchi et al of using a mobile phone to respond to an incoming call with a plurality of messages (0008)

Referring to claims 7 and 30, Brennen et al further teaches wherein the station further includes a display; and wherein the software application shows the identity of the calling party on the display, regardless of the message response selected in reaction to locating the priority group (Column 3Lines 62-65), but does not teach a mobile phone. Higuchi et al teaches a mobile phone. Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennen et al with the teaching of Higuchi et al of using a mobile phone to respond to an incoming call with a plurality of messages (0008).

Referring to claim 32, Brennen et al further teaches wherein the memory includes a plurality of message response hierarchies, and matrices of the priority group hierarchy cross-referenced to each of the plurality of message response hierarchies; and wherein the software application identifies the priority group-message response matrix to be used for cross-referencing the located priority group (Column 5, Table 1).

Referring to claim 39, Brennen et al further teaches which the wireless communication network provides Caller ID services and identifies the calling party using the Caller ID services

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provided by the wireless communications network (Column 3, Lines 62-68), but does not teach a mobile phone. Higuchi et al teaches a mobile phone. Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennen et al with the teaching of Higuchi et al of using a mobile phone to respond to an incoming call with a plurality of messages (0008).

Referring to claim 40, Brennen et al further teaches wherein the software application identifies a calling party from factors including the complete phone number, local area exchange, area code, unknown number, and blocked number (Column 4, Lines 52-54), but does not teach a mobile phone. Higuchi et al teaches a mobile phone. Therefore, at the time the invention was made, it would have been obvious to a person of ordinary skill in the art to combine the art of Brennen et al with the teaching of Higuchi et al of using a mobile phone to respond to an incoming call with a plurality of messages (0008).

Allowable Subject Matter

Claim16-21 and 33-38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Referring to claim 16, the references sited do not disclose loading the priority group-message response matrix into local memory includes transmitting the message by wireless

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communication messages selected from the group including short message service (SMS) and general message service.

Referring to claim 17, the references sited do not disclose preceding the loading of the priority group-message response matrix into local memory, manually sending a request that the priority group-message response matrix be transmitted.

Referring to claim 18, the references sited do not disclose wherein the remote memory has an Internet address, and wherein selecting a message response group from the plurality of message response groups includes accessing the Internet address to load the priority group-message response matrix into local memory.

Referring to claim 33, the references sited do not disclose wherein the mobile station port accepts a priority group message response matrix transmitted by the remote memory for storage in the mobile station memory.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

4.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cannon et al. U.S. Patent Pub. No. 2000/0114436 adaptive caller ID storage based on answer status of incoming call.

Davis et al. U.S. Patent Pub. No. 2001/0036254 discloses a DVR Telephone Answering Device.

Gerzberg et al. U.S. Patent No. 6,377,664 discloses video phone multimedia announcement answering machine

Kinoshita U.S. Patent No. 6,493,548 discloses mobile telephone terminal with improved utility

Makela et al. U.S. Patent Pub. No. 2001/0028709 discloses activation of a telephone's own call answering equipment according to the number of the calling party.

Menzel U.S. Patent No. 2002/0107015 discloses radio receiver with a recording unit and connected telephone unit for incoming radio signals.

Mizikovsky U.S. Patent No. 5,559,860 discloses user selectable response to an incoming call at a mobile station.

Normimatsu U.S. Patent No. 5,475,739 discloses radio telephone apparatus having having automatic answering function for confidential messages.

Roderique Patent Pub 2002/0137503 discloses incoming call handling method for mobile communications device incorporating mobile assisted messaging on demand.

Salzwedel U.S. Patent No. 6,389,277 discloses cellular call mode determining device

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5.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to James D Ewart whose telephone number is (703) 305-4826. The

examiner can normally be reached on M-F 7am - 4pm. If attempts to reach the examiner by

telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on

(703)308-5318. The fax phone numbers for the organization where this application or

proceeding is assigned are (703)305-9508 for regular communications and (703)305-9508 for

After Final communications.

        Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703)305-3900.

James Ewart
August 21, 2003

WILLIAM TROST
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

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